

1 MICHAEL N. FEUER, City Attorney, SBN 111529
2 MARY CLARE MOLIDOR, Chief, Criminal & Special Lit., Branch, SBN 82404
3 TINA HESS, Deputy Chief, Safe Neighborhoods & Gang Division, SBN 143900
4 JONATHAN CRISTALL, Supervising Assistant City Attorney, SBN 191935
5 LIORA FORMAN-ECHOLS, Deputy City Attorney, SBN 184135
6 ADAM BIERMAN, Deputy City Attorney, SBN 287575
200 North Main Street, Room 966
Los Angeles, California 90012
Telephone: (213) 978-4090
Fax: (213) 978-8717
E-Mail: adam.bierman@lacity.org

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Superior Court of California
County Of Los Angeles

JUN 20 2017

Sherri R. Carter, Executive Officer/Clerk
By: Charlie L. Coleman, Deputy

7 Attorneys for Plaintiff

NO FEE – GOV'T CODE § 6103

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF LOS ANGELES, CENTRAL DISTRICT

10
11 THE PEOPLE OF THE STATE OF CALIFORNIA,

12 Plaintiff,

13 vs.

14 MAHMOOD HARATI, an individual; ROSA
15 HARATI, an individual; and DOES 1 through 50,
inclusive,

16 Defendants.

Case No.:

BC 6 6 5 6 3 8

COMPLAINT FOR ABATEMENT AND
INJUNCTION

[CIVIL CODE SECTION 3479, ET
SEQ.; BUS. & PROF. CODE SECTION
17200, ET SEQ.]

[Unlimited Action]

20 PLAINTIFF, THE PEOPLE OF THE STATE OF CALIFORNIA, alleges as follows:

21 **I. INTRODUCTION**

22 1. This action ("Action") is brought and prosecuted by Plaintiff, the People of the
23 State of California (the "People"), for the purpose of abating and enjoining a dangerous gang-
24 related public nuisance existing at a commercial shopping center located at 2009-2023 West
25 Florence Avenue, Los Angeles, CA 90047 (the "Property"). This Property, due in part to the
26 lax management practices by property owners Mahmood Harati and Rosa Harati (each a
27 "Defendant" and collectively, the "Defendants"), is a hub for gang-related criminal activity and
28 violence connected to the Rollin 60s Neighborhood Crips (the "Rollin 60s"), a criminal street

1 gang. The Property is located in close proximity to several sensitive sites in the community,
2 including Horace Mann Middle School less than 250 feet away, 74th St. Elementary School
3 less than 750 feet away, KIPP Academy of Opportunity less than 1250 feet away, and several
4 churches in the blocks neighboring the Property.

5 2. In recent years, members of the Rollin 60s and their associates have freely
6 engaged in criminal and violent behavior at and immediately around the Property, in addition to
7 loitering in the Property's parking lot on a daily basis. Los Angeles Police Department
8 ("LAPD") officers frequently respond to calls for criminal activity at the Property perpetrated by
9 members and associates of the Rollin 60s, including robberies, assaults, and individuals
10 illegally in possession of firearms.

11 3. The Property is notorious in the surrounding community and amongst LAPD
12 officers as a dangerous and troublesome Rollin 60s gang location. The Property fosters and
13 augments the gang's hold on the surrounding area by serving as a hospitable location to
14 further the gang's operations. Not every similar property within a gang's turf is available for
15 exploitation by the gang. Most commercial locations similar to the Property in the area are
16 managed better, more physically fortified, and lack gang "friendlies" that attract gang members
17 and associated criminal activities. The properties that do fall under the grip of a gang, however
18 – such as the Property complained of herein – become toxic to the people in their vicinity.

19 4. This nuisance abatement prosecution is brought to compel action by the
20 Defendants to bring the unacceptable state of affairs at the Property to a swift and permanent
21 halt.

22 **II. THE PARTIES AND THE PROPERTY**

23 **A. Plaintiff**

24 5. Plaintiff, the People, is the sovereign power of the State of California, and is
25 authorized to bring the first cause of action pursuant to California Code of Civil Procedure
26 section 731 which authorizes abatement, injunction, and penalty of and for public nuisances
27 pursuant to the Public Nuisance Law ("PNL"), California Code sections 3479-3480; and the
28 second cause of action pursuant to California Business and Professions Code section 17204,

1 which authorizes cities with a population in excess of 750,000, such as Los Angeles, to
2 prosecute actions for relief under California Business and Professions Code section 17200, *et*
3 *seq.* for unlawful competition.

4 **B. Defendants**

5 6. Defendants Mahmood Harati and Rose Harati are husband and wife and own the
6 Property as joint tenants. They have owned and exercised control over the Property since late
7 2004. Defendant Mahmood Harati also owns and operates a prosthetics store at the Property.

8 7. The true names and capacities of defendants sued herein as DOES 1 through
9 50, inclusive, are unknown to the Plaintiff, who therefore sues said defendants by such
10 fictitious names. When the true names and capacities of said defendants have been
11 ascertained, the Plaintiff will ask leave of the Court to amend this complaint and to insert in lieu
12 of such fictitious names the true names and capacities of said fictitiously named defendants.

13 **C. The Property**

14 8. The Property is a commercial shopping center on a plot legally described as:
15 "Lots 41, 42, 43, 44, 45 and 46, of Tract 6279, in the City of Los Angeles, County of Los
16 Angeles, State of California, as per map recorded in Book 106, Pages 65 to 67 inclusive of
17 Maps, in the Office of the County Recorder of said County." The Los Angeles County
18 Assessor's Parcel Number for the Property is 6016-034-002. A photograph of the Property is
19 attached hereto as Exhibit 1.

20 9. The Property consists of approximately six storefronts. Plaintiff is informed and
21 believes, and upon such information and belief alleges, that there are only three businesses
22 currently operating out of storefronts at the Property – an unlawful medical marijuana business,
23 Defendant Mahmood Harati's prosthetics store, and a discount food market. The Property's
24 physical appearance is unkempt and sends the distinct message that no one, with the possible
25 exception of the gang, is in charge.

26 10. The Property is located near several sensitive sites, including two middle
27 schools, an elementary school, and numerous churches. A map showing the location of the
28 Property in relation to these sensitive sites is attached hereto as Exhibit 2.

III. THE PUBLIC NUISANCE LAW

11. The PNL, Civil Code section 3479, defines a public nuisance as "[a]nything which is injurious to health, including, but not limited to, the illegal sale of controlled substances, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property...." (See *City of Bakersfield v. Miller* (1966) 64 Cal.2d 93, 99 ["The Legislature has defined in general terms the word 'nuisance' in Civil Code section 3479. . . ."].)

12. Civil Code section 3480 defines a public nuisance as "one which affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal."

13. The case law is "replete with examples" of the "threat violent street gangs ... pose to the safety of peaceful Californians." (*Castaneda v. Olsher* (2007) 41 Cal.4th 1205, 1216.) In a case involving gang-related gunfire similar to what is occurring at the Property here, the California Supreme Court explicitly recognized that "[s]treet gang activity can often subject" innocent bystanders "to unacceptable levels of risk." (*Id.*) In *Medina v. Hillshore Partners* (1995) 40 Cal.App.4th 477, 486, involving a wrongful death claim by the mother of a young man shot by gang members at an apartment complex, the Court said, "We agree that the congregation of gangs poses a foreseeable risk of harm to the public." In particular, the whole spectrum of typical street gang conduct, ranging from loitering, to public drinking and boisterousness, to drug dealing, to gunfire, has been held to "easily meet the statutory standard" for a public nuisance under Civil Code section 3479. (*People ex rel. Gallo v. Acuna* (1997) 14 Cal.4th 1090, 1120.)

14. Civil Code section 3491 provides the methods by which public nuisances such as those alleged herein may be abated. Civil Code section 3491 states that the "remedies against a public nuisance are indictment or information, a civil action or abatement." Abatement is "accomplished by a court of equity by means of an injunction proper and suitable to the facts of each case." (*Sullivan v. Royer* (1887) 72 Cal. 248, 249.)

15. Code of Civil Procedure section 731 authorizes a city attorney to bring an

1 action to enjoin or abate a public nuisance. It provides, in relevant part, "[a] civil action may be
2 brought in the name of the people of the State of California to abate a public nuisance . . . by
3 the city attorney of any town or city in which such nuisance exists."

4 16. "[S]trict liability for nuisance historically attends the possession and control of
5 land." (*Leslie Salt Co. v. San Francisco Bay Conservation and Development Commission*
6 (1984) 153 Cal.App.3d 605, 618 n. 15 & 619). "It is immaterial whether the acts" of the
7 persons sought to be held liable for a nuisance "be considered willful or negligent; the essential
8 fact is that, whatever be the cause, the result is a nuisance." (*Snow v. Marian Realty Company*
9 (1931) 212 Cal. 622, 625-26; see also *Sturges v. Charles L. Harney, Inc.* (1958) 165
10 Cal.App.2d 306, 318 ["a nuisance and liability therefore may exist without negligence"]; *People*
11 *v. McCadden* (1920) 48 Cal.App. 790, 792 ["A judgment supported on findings that such
12 nuisance was conducted and maintained on the premises in question, regardless of the
13 knowledge of the owner thereof, is sufficient. Such knowledge on the part of the owner . . . is
14 unnecessary."].) This strict standard is because "the object of the act is not to punish; its
15 purpose is to effect a reformation of the property itself." (*People v. Bayside Land Co.* (1920) 48
16 Cal.App. 257, 261.)

17 **IV. UNFAIR COMPETITION LAW**

18 17. The practices forbidden by the state Unfair Competition Law at Business and
19 Professions Code section 17200, *et seq.* ("UCL") are any business practices forbidden by law,
20 be it criminal, federal, state, municipal, statutory, regulatory or court-made. As the California
21 Supreme Court has explained, the UCL "'borrows' violations of other laws and treats them as
22 unlawful practices independently actionable under Section 17200, *et seq.*" (*South Bay*
23 *Chevrolet v. General Motors Acceptance Corp.* (1999) 72 Cal.App.4th 861, 880 (internal
24 citations and quotation marks omitted).)

25 18. As proscribed by the UCL, "[a]n 'unlawful business activity' includes anything that
26 can properly be called a business practice and that at the same time is forbidden by law."
27 (*People v. McKale* (1979) 25 Cal.3d 626, 632.) The ownership and operation of a commercial
28 shopping center, such as the Property, by owners doing so for the purposes of profit, is,

1 axiomatically, a business under the UCL. Thus, when a property owner conducts, maintains,
2 or permits a nuisance that is unlawful under the PNL to exist on the premises of such a
3 property, it is a violation of the UCL. Similarly, when a property owner violates provisions of
4 the Los Angeles Municipal Code ("LAMC") by unlawfully renting, leasing, or otherwise
5 permitting a medical marijuana business to occupy or use a location in the City of Los Angeles,
6 it is also a violation of the UCL.

7 19. Moreover, the UCL casts a broad net. "Any person performing or proposing to
8 perform an act of unfair competition may be enjoined . . ." (Bus. & Prof. Code, § 17203.) The
9 term person includes "natural persons, corporations, firms, partnerships, joint stock
10 companies, associations and other organizations of persons." (Bus. & Prof. Code, § 17201.)
11 The courts have expanded Section 17200's net beyond direct liability to include common law
12 doctrines of secondary liability where the liability of each defendant is predicated on his or her
13 personal participation in the unlawful practices. (*People v. Toomey* (1985) 157 Cal.App.3d 1,
14 14; *Emery v. Visa Int'l Service Ass'n* (2002) 95 Cal.App.4th 952, 960.)

15 20. A public entity can sue pursuant to Section 17200 based on violations of its own
16 municipal code, state law, or other local ordinance. (*People v. Thomas Shelton Powers, M.D.,*
17 *Inc.* (1992) 2 Cal.App.4th 330, 338-339.)

18 21. Defendants engaging in violations of the UCL may be enjoined in any court of
19 competent jurisdiction. (Bus. & Prof. Code, § 17203.) A court may make such orders or
20 judgments, including appointment of a receiver, as may be necessary to prevent the use or
21 employment by any person of any practice constituting unfair competition. (*Id.*)

22 **V. FIRST CAUSE OF ACTION FOR PUBLIC NUISANCE**

23 **[Civil Code section 3479, et seq. --**

24 **Against Defendants and DOES 1 through 50]**

25 22. Plaintiff incorporates by reference Paragraphs 1 through 21 of this Complaint and
26 makes them part of this First Cause of Action as though fully set forth herein.

27 23. From an exact date unknown through the present time, Defendants, and DOES 1
28 through 50, have alternately owned, operated, managed, and used, and/or directly or indirectly

1 permitted to be occupied and used, the Property in such a manner as to constitute a public
2 nuisance in accordance with Civil Code sections 3479 and 3480. The public nuisance, as
3 described herein, is injurious to health, indecent or offensive to the senses, and/or an
4 obstruction to the free use of property, so as to substantially and unreasonably interfere with
5 the comfortable enjoyment of life or property by those persons living in the surrounding
6 community. The public nuisance at the Property consists of, but is not limited to, the regular,
7 menacing, intimidating, disorderly, and violent presence of gang members and/or associates at
8 and around the Property; the armed robbery of business owners and patrons at the Property;
9 and the occurrence of gun violence on, around, and in connection with the Property.

10 24. Defendants, and DOES 1 through 50, in owning, conducting, maintaining, and/or
11 permitting the use of the Property, directly or indirectly, as a public nuisance, have engaged in
12 wrongful conduct and caused a serious threat to the general health, safety, and welfare of the
13 law-abiding tenants at the Property and persons in the area surrounding the Property.

14 25. Unless Defendants, and DOES 1 through 50, are restrained and enjoined by
15 order of this Court, they will continue to use, occupy, and maintain, and to aid, abet, or permit,
16 directly or indirectly, the use, occupation, and maintenance of the Property, together with the
17 fixtures and appurtenances located therein, for the purpose complained of herein, to the great
18 and irreparable damage of Plaintiff and in violation of California law.

19 **VIII. SECOND CAUSE OF ACTION FOR UNFAIR COMPETITION**

20 **[Business and Professions Code Section 17200, *et seq.* --**

21 **Against Defendants and DOES 1 through 50]**

22 26. Plaintiff hereby incorporates by reference paragraphs 1 through 25 of this
23 Complaint and makes them part of this Second Cause of Action, as though fully set forth
24 herein.

25 27. Ownership and operation of the Property, a commercial shopping center, is a
26 business. When the owner and/or manager of such a business violates the PNL such that a
27 nuisance exists and flourishes at the business' premises, as alleged herein, it is also a
28 violation of the UCL.

28. Defendants, and DOES 1 through 50, have violated the UCL by conducting, maintaining and/or permitting, directly or indirectly, a nuisance in violation of the PNL at the Property, as alleged herein.

29. When the owner and/or manager of a commercial shopping center such as the Property violates provisions of the LAMC by permitting a medical marijuana business to operate at it, it is also a violation of the UCL. Under LAMC section 45.19.6.2, operating or allowing the operation of, including by leasing to, a medical marijuana business in the City of Los Angeles is unlawful. Under LAMC section 12.21.A.1, subdivision (a), using or allowing the use of land and buildings for a medical marijuana business is unlawful.

30. Defendants, and DOES 1 through 50, have also violated the UCL by permitting a medical marijuana business to operate on the Property in violation of LAMC sections 45.19.6.2 and 12.21.A.1(a).

31. Plaintiff has no adequate remedy at law, and unless Defendants, and DOES 1-50, are restrained by this Court they will continue to commit unlawful business practices or acts, thereby causing irreparable injury and harm to the public's welfare.

PRAYER

WHEREFORE, PLAINTIFF PRAYS THAT THIS COURT ORDER, ADJUDGE AND DECREE AS FOLLOWS:

AS TO THE FIRST CAUSE OF ACTION

AS TO DEFENDANTS and DOES 1 through 50:

1. That the Property, together with the fixtures and moveable property therein and thereon, be declared a public nuisance and be permanently abated as such in accordance with Civil Code section 3491.

2. That the Court grant a preliminary injunction, permanent injunction and order of abatement, enjoining and restraining each Defendant, and any agents, officers, employees, and anyone acting on their behalf, and their heirs and assignees, from operating, conducting, using, occupying, or in any way permitting the use of the Property as a public nuisance. Such orders should include, but not be limited to, physical and managerial improvements to the

1 Property and such other orders as are appropriate to remedy the nuisance on the Property and
2 enhance the abatement process.

3 3. That Plaintiff be granted such costs as may occur in abating said nuisance at the
4 Property and such other costs as the Court shall deem just and proper.

5 4. That Plaintiff be granted such other and further relief as the Court deems just and
6 proper, including closure and/or demolition of the Property.

7 5. That each Defendant, and any agents, trustees, officers, employees and anyone
8 acting on their behalf, and their heirs and assignees, be perpetually enjoined from transferring,
9 conveying, or encumbering any portion of the Property, for consideration or otherwise, without
10 obtaining the Court's prior approval.

11 6. That each Defendant be ordered to immediately notify any transferees,
12 purchasers, commercial lessees, or other successors in interest to the subject Property of the
13 existence and application of any temporary restraining order, preliminary injunction, or
14 permanent injunction *before* entering into any agreement to sell, lease, or transfer, for
15 consideration or otherwise, all or any portion of the Property that is the subject of this Action.

16 7. That each Defendant be ordered to immediately request and procure signatures
17 from all prospective transferees, purchasers, lessees, or other successors in interest to the
18 subject Property, which acknowledges his/her respective receipt of a complete, legible copy of
19 any temporary restraining order, preliminary and permanent injunction, and deliver a copy of
20 such acknowledgment to the Los Angeles City Attorney's Office, c/o Deputy City Attorney
21 Adam Bierman or his designee.

22 AS TO THE SECOND CAUSE OF ACTION

23 AS TO DEFENDANTS and DOES 1 through 50:

24 1. That each Defendant be declared in violation of Business and Professions Code
25 section 17200.

26 2. That each Defendant, and any agents, heirs, successors, and anyone acting on
27 their behalf, be permanently enjoined from maintaining, operating, or permitting any unlawful or
28 unfair business acts or practices in violation of Business and Professions Code section 17200.

1 3. That the Court grant a preliminary and/or permanent injunction prohibiting each
2 Defendant, and any agents, heirs, successors, and anyone acting on their behalf, from
3 engaging in the unlawful or unfair acts and/or practices described herein at the Property and in
4 the City of Los Angeles. Such orders should include physical and managerial improvements to
5 the Property and the removal of the unlawful medical marijuana business operating on the
6 Property.

7 4. That, pursuant to Business and Professions Code section 17206, each
8 Defendant be assessed a civil penalty of Two Thousand Five Hundred Dollars (\$2,500) for
9 each and every act of unfair competition.

10 5. That, pursuant to the Court's equitable power and Business and Professions
11 Code section 17203, the Court make such orders or judgments, including appointment of a
12 receiver, to eliminate the unfair competition alleged herein.

13 AS TO ALL CAUSES OF ACTION

14 1. That Plaintiff recover the amount of the filing fees and the amount of the fee for
15 the service of process or notices that would have been paid but for Government Code section
16 6103.5, designating it as such. The fees may, at the Court's discretion, include the amount of
17 the fees for certifying and preparing transcripts.

18 2. That Plaintiff be granted such other and further relief as the Court deems just and
19 proper.

20
21 DATED: June 20, 2017

Respectfully submitted,

22 MICHAEL N. FEUER, City Attorney
23 JONATHAN CRISTALL, Supervising Assistant City Attorney

24
25 By:

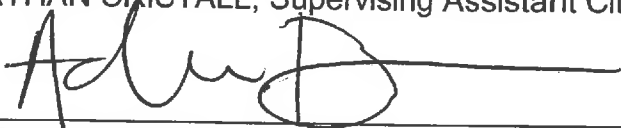
26 
27 ADAM BIERMAN, Deputy City Attorney
28 Attorneys for Plaintiff, THE PEOPLE OF THE STATE
OF CALIFORNIA

Exhibit 1

Exhibit 1 - 2009 W. Florence Blvd.

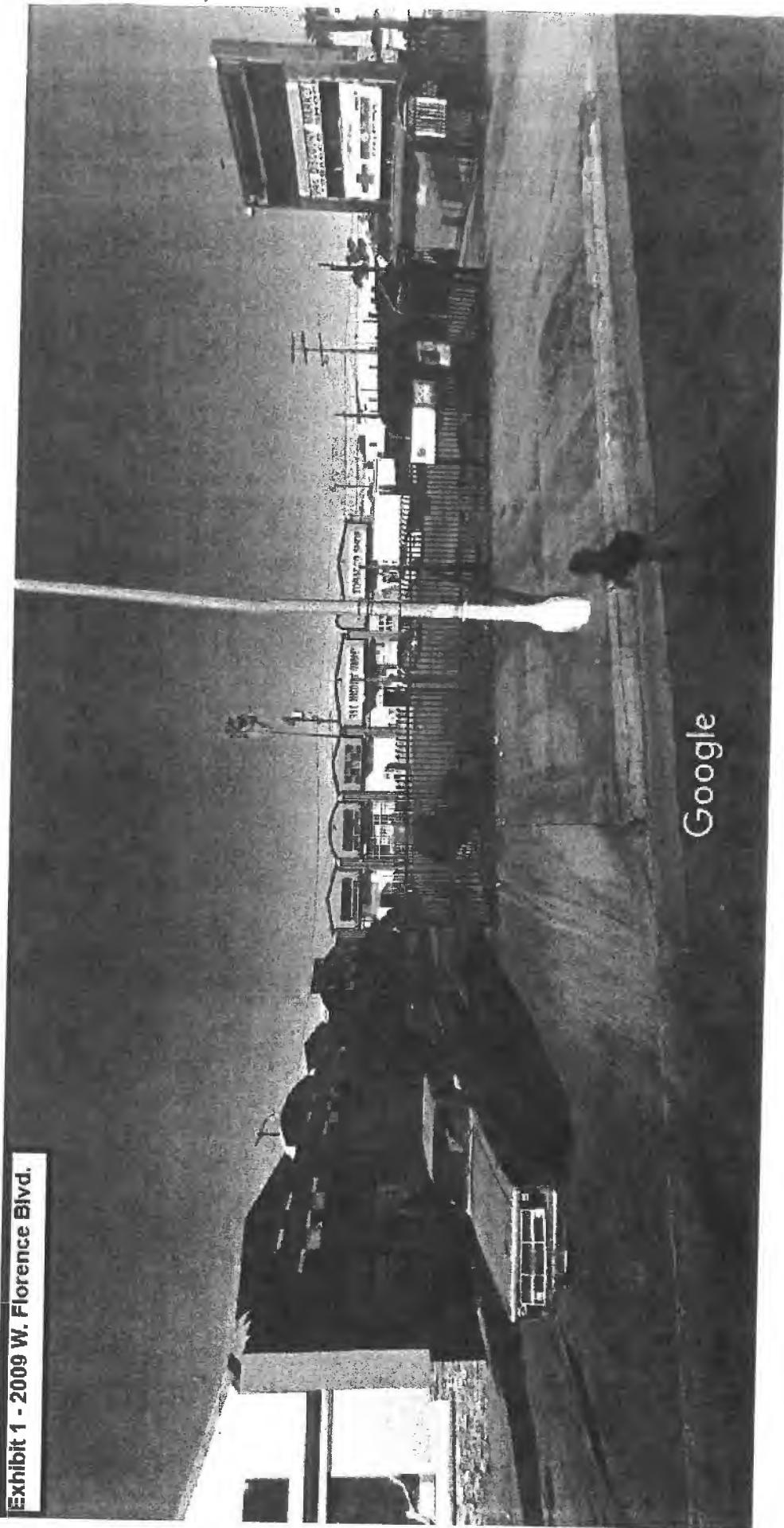
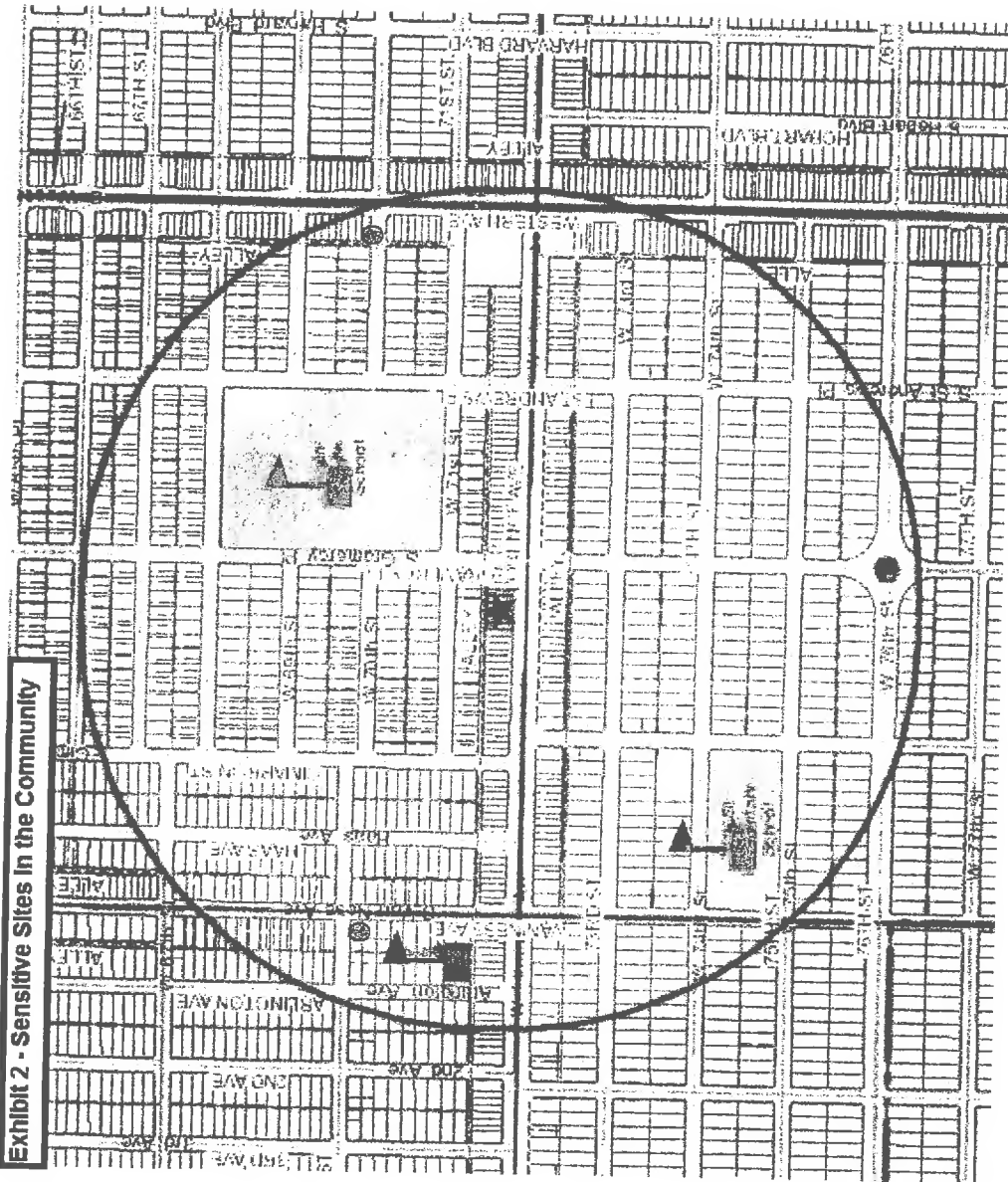


Exhibit 2

Exhibit 2 - Sensitive Sites in the Community



— = 1500 ft radius

★ = 2009 W Florence Avenue

■ = Gramercy Circle Park
(1975 W 76th Street approx 1381 ft away)

🚩 = Mann Middle School
(7001 S St Andrews Place approx 213 ft away)

74th Street Elementary School
(2112 West 74th Street approx 724 ft away)

KIPP Academy of Opportunity
(7019 Van Ness approx 1213 ft away)

🪙 = St Anselm Catholic Church
(2222 W 70th Street approx 1200 ft away)
Ephesus 7th Day Adventist
(7005 S Western Avenue approx 1397 ft away)